Annual Report

Education Relations Commission

1984-1985

Ontario

Education Relations Commission

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To: The Members of the Legislative Assembly
Province of Ontario

ANNUAL REPORT
1984-1985

Dear Members,

We have the honour to present the Tenth Annual Report of the Education Relations Commission, covering the period from September 1, 1984 to August 31, 1985.

Sincerely,

Bryan M. Downie
Chairman

ISSN 0708-0092

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OVERVIEW

The 1984-85 reporting year was a difficult one for the Commission and for the parties. The major development was a return to collective bargaining after a two year period of wage controls.

NEGOTIATIONS

The problems referred to above were not unexpected. In last year's Annual Report the Commission had this to say:

The return to collective negotiations after a two year hiatus and with informal limits on total compensation for 1984-85 has major implications for the length and character of the bargaining process. The Commission is of the view that bargaining in general will be long and difficult in the forthcoming round.

During the 1984-85 round, there were a total of 227 sets of negotiations — more than any other year since the Commission's inception. This resulted in an extremely heavy work load for the Commission's staff and its cadre of ad hoc third parties.

Of more concern was the fact that negotiations were more difficult and required more third party intervention than in any previous year. There were a greater number of mediator appointments — both in terms of total number and as a percentage of negotiations conducted — than in any previous negotiation round. This was also the case of fact finder appointments.

Negotiations were long and drawn out and a total of seven strikes occurred — four in the secondary school system and three in separate school boards. As well, Commission staff was called upon to supervise a larger number of last offer and strike votes than in any previous round.

The above may be simply a response to the two year hiatus mentioned above. The 1984-85 results are particularly disturbing, however, if they are a portent for future negotiation rounds. That is, it may be that 1984-85 signals a fundamental change in teacher-school board negotiations. If so, new approaches may be necessary to ensure an effective and efficient process of dispute resolution. One approach ("proactive bargaining") utilized in 1984-85 is described on pages 16-18 of this report. The results of that approach were not encouraging and are indicative of the difficulties in this area.

THE DURHAM CASE

During the reporting year the Ontario Court of Appeal upheld the Commission's determination in the Durham Case. The Durham determination was made by the Commission in 1983 and flowed from conflicting views regarding the relationship of the **School Boards and Teachers Collective Negotiations Act** (Bill 100) and the **Inflation Restraint Act.** The main question in the case was whether the provisions of the **Inflation Restraint Act** extended (for the life of that Act) the collective agreements of the parties covered by Bill 100. If that were the case, collective negotiations for the 1983-84 period would be discontinued.

The Commission decided (in a good faith bargaining case involving the Durham Board of Education) that the provisions of the **Inflation Restraint Act** did not automatically extend the collective agreement and, therefore, that collective bargaining on non-compensation matters should be continued under the provisions of Bill 100. This determination was taken for judicial review by the Durham Board of Education.

The Commission's determination was upheld in the Divisional Court of the Supreme Court of Ontario in October 1983. In May 1984 the case was argued in the Court of Appeal. In its decision released on October 22, 1984 the Court of Appeal made the following comments:

> In short, the Labour Relations Board held that section 13(b) of the Act extended the life of collective agreements which contained compensation plans. The Education Relations Commission held that Section 13(b) did not extend the life of such collective agreements...The Board and Commission gave extensive, well considered and persuasive reasons for their conclusions. Both, however, cannot be right.

The Court went on to say:

> . . . We conclude that the Labour Relations Board and the Divisional Court erred in finding that the Service Employees Union's application was not timely on the grounds that Section 13 continued in force the collective agreement there in issue.
>
> We further conclude that the Education Relations Commission's decision, that the application of the OSSTF was timely, was correct . . .

RESEARCH SERVICES

During the reporting year the Commission reviewed the research and information services provided to the parties and to its third parties. After an extensive period of study and analysis, it was concluded that the Commission's existing operations on an external mainframe computer should be closed down, a Digital VAX 11/750 mini computer should be purchased, and all computing should be carried out "in house". This change will allow the ERC to reduce its data processing costs while vastly improving and expanding its Research and Information Services.

PERSONNEL CHANGES

Kathryn Mullin (resignation), Field Service Officer, who was with the Commission briefly, left during the reporting year. To fill this vacancy the Commission appointed Ms. Victoria E. Grabb, of Toronto, as Field Service Officer.

Ms. Grabb holds a B.A. (History and Sociology) and an M.A. (Sociology) from the University of Toronto. In addition, she has completed all the requirements except the dissertation for a Ph.D. Ms. Grabb taught sociology at the University of Toronto before taking up a position with the University of Toronto Faculty Association in 1980. In this latter capacity she developed broad experience in collective bargaining, research and policy analysis.

I TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO — A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compulsory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy and, therefore, in conflict with the principle of representative government.

Morever, those who drafted Bill 100 were convinced by events in the education sector as well as other jurisdictions that strike-prohibiting legislation is not always effective. In fact, it was felt that it could have the opposite effect. There was — and is — a feeling by many labour relations experts that legislation prohibiting strikes may expand or magnify employer-employee confrontation. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher/board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures, and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as **voluntary** arbitration or final offer selection were provided at each step in the bargaining process. Events leading to a legal strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

(a) a fact finder has met with the parties and his/her report has been made public; and

(b) a 30-day cooling-off period takes place after the fact finder's report is submitted to the parties; and

(c) the teachers have voted-by secret ballot in a supervised vote-on the last offer of the school board; and

(d) the teachers have voted — by secret ballot in a supervised vote — to take strike action.

Other features of the Act were also significant. Negotiations take place at the county board level between the local teachers' federation(s) and the school board. There are separate negotiations in the elementary and secondary panels of each board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for binding settlement of disputes arising out of the administration of the agreement if such a procedure has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-person commission — The Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under Section 60 of the Act which are outlined below:

1. monitoring all negotiations;
2. collecting and providing data to all parties in collective negotiations;
3. assisting the parties in their collective negotiations;
4. training third party neutrals;
5. adjudicating good faith bargaining charges;
6. supervising last-offer, strike and ratifications votes;
7. advising the Lieutenant Governor-in-Council concerning jeopardy to students' courses of study in the event of a strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews Commission — chaired by Dr. B.C. Matthews, then President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first five years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act.

Redundant sections of the Act were removed in 1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the School Boards and Teachers Collective Negotiations Act. Revised Statutes of Ontario, 1980, Chapter 464.

II INFLATION RESTRAINT ACT

Teacher-Board negotiations were significantly altered when **An Act respecting the Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province** (Bill 179) was introduced. Briefly, Bill 179, introduced in the Legislature on September 21, 1982, limited compensation increases in the public sector to up to 9 per cent in the first year of the program (the "transitional" year) and 5 per cent in the second year (the "control" year). The legislation removed the right-to-strike or lock-out and also provided for the formation of the Inflation Restraint Board (IRB) to administer the Act, and to monitor wage and price increases in the public and private sectors.

The introduction of Bill 179 had an immediate effect on the progress of teacher/board negotiations. In almost every instance across the province, negotiations were stalled as the parties assessed the implications of the proposed legislation. During the three month period from the time the Bill was introduced until it was proclaimed the bargaining atmosphere was adversely affected as uncertainty about the implications increased. This uncertainty persisted as bargaining slowly resumed.

In this regard, the significant sections of the Act were as follows:

> Section 13: which extended the terms and conditions of the collective agreement;
>
> Section 14: which allowed the parties to a collective agreement to apply to the IRB with respect to certain disputed matters;
>
> Section 15: which stated that parties to a collective agreement which includes a compensation plan that is extended under Section II may, by agreement, amend the terms and conditions ... other than compensation rates,..

In many jurisdictions negotiations proceeded normally within the constraints imposed by the provisions of Bill 179. Collective agreements were signed which reflected the 9% ceiling on increases to the grid. In others, negotiations ceased as Boards took the position that section 13 of the legislation extended the collective agreement thus **removing the obligation to bargain.** This issue ultimately was placed before the Commission in the form of an application by the secondary school teachers employed by the Durham Board of Education for a determination with respect to good faith bargaining.

Counsel for the Board filed papers with the Commission prior to the hearing challenging the jurisdiction of the Commission to hear this matter while Counsel for the teachers (O.S.S.T.F., District 17) took an opposing view. As a result, the fundamental issue was the effect of the **Inflation Restraint Act** on the Commission's jurisdiction and duties. A hearing was held and a determination on the issue of jurisdiction was made.

In its decision the Commission determined that the Inflation Restraint Act must be viewed as a consistent whole and that its various provisions, particularly sections 13, 14 and 15 must be logically reconciled. This exercise led the Commission to the opinion that the intent of the **Inflation Restraint Act** was to restrain wages in the public sector within certain limits, and to prohibit sanctions, but to allow a continuation of normal labour-management negotiations on non-monetary matters. Therefore, the Commission determined:

> ...it is our opinion that the **Inflation Restraint Act** does not terminate the statutory duties imposed on the Commission under Section 60(1)(f) of the **School Boards and Teachers Collective Negotiations Act.**

The determination was appealed by the Durham Board of Education to the Supreme Court of Ontario for judicial review. On October 24, 1983 the Divisional Court of the Supreme Court of Ontario unanimously dismissed the application of the Durham Board of Education.

On November 14, 1983 in the Court of Appeal the Durham Board of Education applied for and was granted leave to appeal this decision. The case was heard in May 1984. During the reporting year (October 1984) the Court of Appeal in a unanimous decision upheld the Commission's determination.

In the current year, the dynamics of teacher-board bargaining were further changed with the introduction of **An Act to Provide for the Review of Prices and Compensation in the Public Sector and for an Orderly Transition of the Resumption of Full Collective Bargaining** (Bill 111). The Act provided for the return to normal forms of dispute resolution but at the same time changed the parameters of collective bargaining. The Treasurer, in introducing the legislation, indicated the province would limit funding for all public sector compensation increases to provide an average increase of 5 percent. Criteria for increases referred to in the Act were published in **The Ontario Gazette** with a recommended range for salary increases of zero to five percent. This, plus the Treasurer's statement concerning the 5 percent increase in transfer payments provided narrow boundaries to the parties in the public sector negotiations for the 1984-85 bargaining year.

III THE COMMISSION — MEMBERS AND ORGANIZATIONAL STRUCTURE

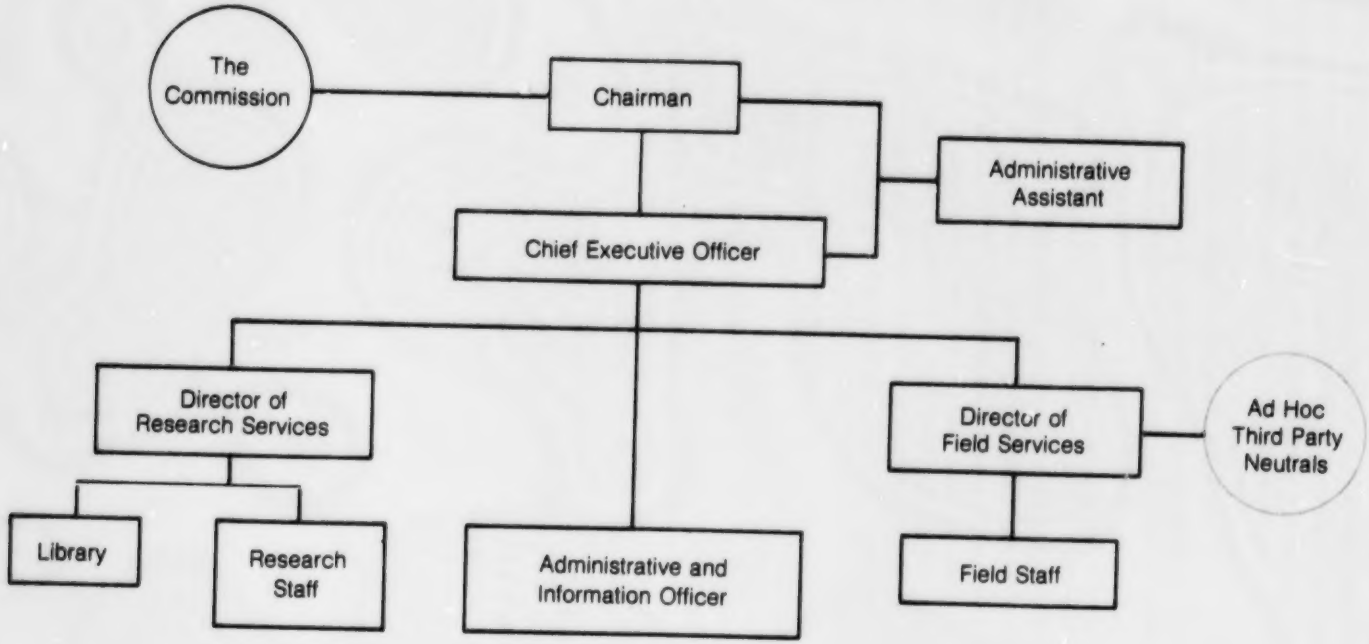
The Education Relations Commission is composed of five members appointed by the Lieutenant Governor-in-Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan Downie was first appointed Chairman of the Commission on November 1, 1979 and was reappointed for a second term on October 31, 1982. T. Gary O'Neill was appointed Vice-Chairman on December 22, 1982. Louise D. Binder was appointed a Commissioner in February of 1983, Donald S. Felker in February of 1983 and Harvey H. Nightingale in October of 1982. A biographical sketch of each of the Commissioners is contained in Appendix A.

The Commission has a permanent staff of 16 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre of more than seventy individuals who are appointed on a contractual basis as third party neutrals. This arrangement has allowed the Commission to attract and utilize some of the more able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission, per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions — Field Services and Research Services. (An organizational chart is provided in Figure 1.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

The small size and the extensive experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

ORGANIZATION CHART: THE EDUCATION RELATIONS COMMISSION



IV NEGOTIATIONS 1984-85

1. The Parties

The parties to negotiations are the 2,200 trustees and the 106,000 teachers who represent and work in the approximately 200 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (48) provide Catholic education in the province.. In many cases, these boards are geographically different from each other. A second difference is illustrated by the fact that the R.C.S.S. Boards do not have a secondary panel. Provincial funding for the R.C.S.S. Boards is provided to grade 10 only. Such Boards offering grades 11, 12 and 13 are actually operating private schools. This, however, will no longer be the case. In June 1984 the Premier announced the extension of funding to Secondary Schools in RCSS Boards.

Both the trustees and the teachers are organized in a group of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Association of Ontario (FWTAO);
2. The Ontario Public School Teachers' Federation (OPSTF);*
3. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA);
5. L'Association des enseignants franco-ontariens (AEFO).

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association francaise des conseils scolaires de l'Ontario (AFCSO);
5. The Northern Ontario School Trustees' Association (NOSSTA).

*Changed from Ontario Public School Men Teachers' Federation at annual conference in August, 1982. (OPSMTF)

During 1984-85, negotiations covering the terms and conditions of employment for approximately 100,000 teachers took place. The number of school boards and the branch affiliates, by type, and the number of teachers employed by those boards are summarized in Table 1.

MEMBERS OF THE COMMISSION

Chairman —
BRYAN M. DOWNIE, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, ***Collective Bargaining and Conflict Resolution in Education*** examines the activities and policies of the Education Relations Commission during its formative years. He is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C. and is currently President of the Canadian Industrial Relations Association and a member of the Board of Directors of the Social Science Federation of Canada.

Vice-Chairman —
T. GARY O'NEILL, B.A. Sc. (University of Toronto), M.Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.

Commissioner —
HARVEY M. NIGHTINGALE, B.A. (University of Western Ontario), M.Ed. (University of Toronto), M.A. (York University).

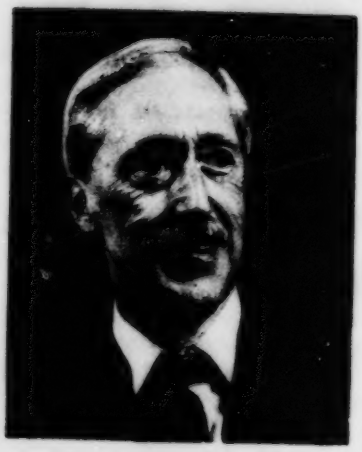
Mr. Nightingale served as Director of Economic and Legislative Services for the Ontario Trustees' Council from 1973 to 1981. In this position he was responsible for both developing and articulating the trustees' position on various educational issues, including collective bargaining — the School Boards and Teachers Collective Negotiations Act.

Mr. Nightingale is Executive Director of the Ontario Nursing Home Association.

Commissioner —
LOUISE D. BINDER, B.A. (University of Toronto), LL.B. (Queen's University).

Ms. Binder is Co-ordinator of Labour Relations with Gulf Canada Products Limited. Following graduation from law school she practised labour law for management with a Toronto law firm. Since 1977, she has been in private sector Employee Relations.

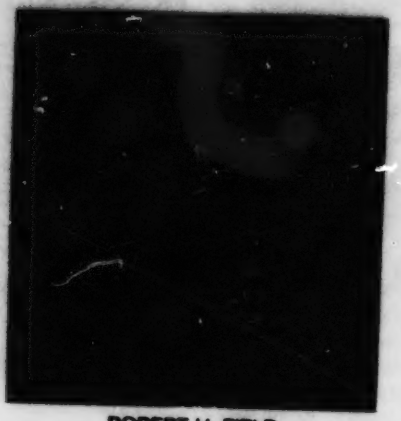
Ms. Binder is also a member of the Ontario Public Service Labour Relations Tribunal.



Commissioner —
DONALD S. FELKER, B.Sc. (University of Ottawa), M.Ed. (University of Toronto), Ed.D. (University of Pennsylvania).

Dr. Felker, a self-employed educational consultant, has served as an appointee to both grievance and arbitration boards. He spent thirteen years in the Ontario Public School System as a Teacher, Vice-Principal and Principal and from 1968 to 1973, he served as General Secretary for the Ontario Secondary School Teachers' Federation. Dr. Felker is a Fellow of the Ontario Teachers' Federation and a Life Member of the Ontario Secondary School Teachers' Federation.

SENIOR STAFF OF THE COMMISSION



ROBERT H. FIELD
Chief Executive Officer

CRAIG A. CRAWFORD
Director of Research Services

EDWARD M. AIM
Director of Field Services

Table 1 School Boards, Branch Affiliates, and Teachers in Ontario, 1984-85

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	-	25	76
Metro. Toronto School Board*	1	1	1	-	-	-
County and District Combined Roman Catholic Separate School Boards	48	-	-	47	40	-
Other Public School Boards	42	4	7	-	-	-
Other Separate School Boards	13	1	1	5	4	-
Secondary School Boards	1	-	-	-	-	1
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	23	8	8	-	4	2
Total	204	90	93	53	73	79
Number of Teachers	105,989	30,241	14,419	20,966	5,106	35,257

*The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSTF.

2. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, under ordinary circumstances not every collective agreement comes up for renewal every year. As noted in Table 2, however, 227 of 228 jurisdications were subject to negotiations in 1984-85. This was due to expiry of the **Inflation Restraint Act** (previously discussed). As a result the level of negotiating activity in 1984-85 was heavier than any previous year including the first year following the inception of Bill 100.

Table 2 Status of Negotiations, 1984-85		
Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education — Elementary	-	76
Board of Education — Secondary	-	76
County and District Combined Roman Catholic Separate School Boards	1	47
Other School Boards	-	28
Total	1	227

*Concluded a multi-year settlement during a previous year.

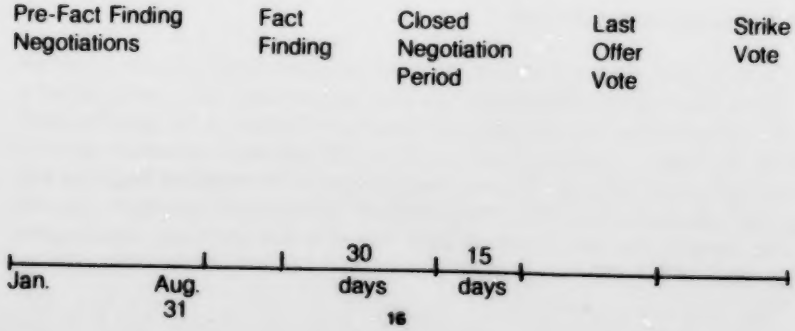
3. Third Party Appointments

Figure 2 sets forth the possible stages in negotiations under Bill 100. The Act specifies that all collective agreements expire on August 31. If there are to be negotiations to renew the collective agreement, one of the parties is required to give its intent to negotiate to the other party and to the Commission in January of that year.

Negotiations between the parties typically occur from January to August without intervention from the ERC but if a settlement has not been reached by August 31, a mediator and/or a fact finder is appointed by the Commission to assist the parties. While mediation is voluntary, a fact finder must be appointed if an agreement has not been reached by August 31.

While it is possible for mediation and fact finding to occur prior to August 31, the more typical pattern is that portrayed in Figure 2. If a fact finder is appointed he/she has 30 days to hold a hearing with the parties and file a written report with the Commission and the parties which remains confidential for a 15 day period. If no settlement is reached during this 15 days, the report is released to the public and the teachers are in a position to request Commission-supervised votes on acceptance or rejection of the school board's last offer received and the matter of strike.

Figure 2.
Negotiation Stages under Bill 100



The number of fact finder and mediator appointments required in 1984-85 is of concern to the Commission and is discussed below. Two further steps in the negotiation process — last offer and strike votes are discussed at a later point in this report.

(a) Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. As noted, the process becomes mandatory once August 31 has passed (the contract expiry date in all teacher/school board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive and procedural issues of a dispute as well as each party's position prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

Once the parties receive the report, they have a 15-day period in which to reach a settlement before the report is made public. If an agreement is not negotiated during this time, the report must be made public by the Commission. Should the parties reach settlement at any time during the fact finding, the process is automatically terminated.

It is clear from experience in the years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that in some cases fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

Under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. The preference, wherever possible, is to settle prior to the point when, under the Act, the Commission must appoint a fact finder. Second, the Commission has attempted to strengthen the fact finding process by trying to convey to the parties and to its third party neutrals that if a settlement cannot be reached without fact finding, the ensuing process should be one out of which a meaningful fact finder's report will emerge. This report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties at least the broad outlines of a settlement. Finally, during the past few years, the Commission has recruited and appointed individuals with extremely high qualifications and experience in labour-management and/or teacher/school board relations; individuals who also have the expertise to write outstanding and effective fact finding reports.

Against this background the results for the 1984-85 year are troubling. Table 3 lists the number of fact finder appointments for this year. Out of 227 sets of negotiations 57 percent or 130 required a fact finder appointment. This represents one of the highest appointment rates since the inception of the Commission.

Table 3 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1984-85

Board Classification	Fact Finder Appointments	Reports Released to Parties	Reports Made Public
Boards of Education — Elementary	42[1]	30	25
Board of Education — Secondary	51[2]	48	40
County and District Combined Roman Catholic Separate School Boards	26[3]	25	22
Other School Boards	9	5	5
Total	130*[1,2,3]	108	92

1. Includes Metropolitan Toronto Elementary Central and Metropolitan Toronto Trainable Retarded.
2. Does not include Hamilton Secondary (AEFO), Simcoe Secondary (AEFO)
3. AEFO and OECTA counted as one in Stormont, Dundas and Glengarry R.C.S.S.

Last year's annual report contained the following portent with respect to possible problems in 1984-85:

> Because of the hiatus in bargaining (due to the **Inflation Restraint Act)** one of the dangers now facing collective bargaining in Ontario education is that, in future negotiation rounds, third parties will be over-utilized by the parties. In many jurisdictions the parties have not had meaningful negotiations for two years and therefore 1984-85 negotiations are likely to be contentious and lengthy.

In this sense the high number of appointments was not a surprise. That is, the 1984-85 results may simply be the result of bargaining inactivity. On the other hand, the rate may be an indication that the legislation should be examined once again.

The Commission did experiment with the fact finding process in the 1984-85 year. As noted, the appointment of a fact finder to a particular set of negotiations is not required by the legislation until the expiry of the collective agreement on August 31, of the year in which the intent to negotiate was filed. Fact finding appointments are normally made during the September to December period in any given year. During 1984-85, the Ontario Secondary School Teachers' Federation encouraged its local affiliates to take a pro-active position and to request fact finding early in the negotiating process before the mandatory date. The Education Relations Commission appointed fact finders during the period April to August 1984 (rather than September to December) where it was satisfied that a state of impasse had been reached.

It was the hope of the Commission that this approach would shorten the length of negotiations. The Matthews Commission had made a recommendation similar to this in 1980 again under the assumption that this would shorten the length of negotiations. The Matthews Commission made the following recommendation.

> Recommendation #27
>
> The Commission recommends that provisions for fact finders remain in Bill 100 but be amended to provide:
>
> (a) That fact finding may be requested by either party at any time after 75 days from the date of notice to negotiate and that the Education Relations Commission shall appoint a fact finder as soon as possible.

The ERC, therefore, monitored very closely those jurisdictions where fact finders were appointed early to ascertain the effect of "pro-active" fact finding on both the length of negotiations and the number of stages in the process used by each jurisdiction.

Under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. The preference, wherever possible, is to settle prior to the point when, under the Act, the Commission must appoint a fact finder. Second, the Commission has attempted to strengthen the fact finding process by trying to convey to the parties and to its third party neutrals that if a settlement cannot be reached without fact finding, the ensuing process should be one out of which a meaningful fact finder's report will emerge. This report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties at least the broad outlines of a settlement. Finally, during the past few years, the Commission has recruited and appointed individuals with extremely high qualifications and experience in labour-management and/or teacher/school board relations; individuals who also have the expertise to write outstanding and effective fact finding reports.

Against this background the results for the 1984-85 year are troubling. Table 3 lists the number of fact finder appointments for this year. Out of 227 sets of negotiations 57 percent or 130 required a fact finder appointment. This represents one of the highest appointment rates since the inception of the Commission.

Table 3 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1984-85

Board Classification	Fact Finder Appointments	Reports Released to Parties	Reports Made Public
Boards of Education — Elementary	42[1]	30	25
Board of Education — Secondary	51[2]	48	40
County and District Combined Roman Catholic Separate School Boards	26[3]	25	22
Other School Boards	9	5	5
Total	130*[1,2,3]	108	92

1. Includes Metropolitan Toronto Elementary Central and Metropolitan Toronto Trainable Retarded.
2. Does not include Hamilton Secondary (AEFO), Simcoe Secondary (AEFO)
3. AEFO and OECTA counted as one in Stormont, Dundas and Glengarry R.C.S.S.

Last year's annual report contained the following portent with respect to possible problems in 1984-85:

> Because of the hiatus in bargaining (due to the **Inflation Restraint Act**) one of the dangers now facing collective bargaining in Ontario education is that, in future negotiation rounds, third parties will be over-utilized by the parties. In many jurisdictions the parties have not had meaningful negotiations for two years and therefore 1984-85 negotiations are likely to be contentious and lengthy.

In this sense the high number of appointments was not a surprise. That is, the 1984-85 results may simply be the result of bargaining inactivity. On the other hand, the rate may be an indication that the legislation should be examined once again.

The Commission did experiment with the fact finding process in the 1984-85 year. As noted, the appointment of a fact finder to a particular set of negotiations is not required by the legislation until the expiry of the collective agreement on August 31, of the year in which the intent to negotiate was filed. Fact finding appointments are normally made during the September to December period in any given year. During 1984-85, the Ontario Secondary School Teachers' Federation encouraged its local affiliates to take a pro-active position and to request fact finding early in the negotiating process before the mandatory date. The Education Relations Commission appointed fact finders during the period April to August 1984 (rather than September to December) where it was satisfied that a state of impasse had been reached.

It was the hope of the Commission that this approach would shorten the length of negotiations. The Matthews Commission had made a recommendation similar to this in 1980 again under the assumption that this would shorten the length of negotiations. The Matthews Commission made the following recommendation.

> Recommendation #27
>
> The Commission recommends that provisions for fact finders remain in Bill 100 but be amended to provide:
>
> (a) That fact finding may be requested by either party at any time after 75 days from the date of notice to negotiate and that the Education Relations Commission shall appoint a fact finder as soon as possible.

The ERC, therefore, monitored very closely those jurisdictions where fact finders were appointed early to ascertain the effect of "pro-active" fact finding on both the length of negotiations and the number of stages in the process used by each jurisdiction.

Table 4 **Results of Early (Pro-Active) Appointment of Fact Finders in Secondary School Negotiations 1984-85**

Secondary School Jurisdiction	Date of Appointment of Fact Finder in 1984	Average Length of Negotiations for this jurisdiction prior to 1984 (in months)	Length of Negotiations for 1984/85 (in months)	Average Stage Score** for this jurisdiction prior to 1984	Stage Score for this jurisdiction during 1984/85 negotiating year
Central Algoma	June 6	10.7	20	7.85	13
Frontenac	April 12	9.75	5	5.0	1
Grey	May 14	7.71	21+*	4.5	19
Halton	August 27	9.75	10	5.0	13
Hamilton	July 3	10.66	20	3.85	20
Hearst	August 27	9.28	18	3.52	12
Kapuskasing	August 27	10.6	12	5.0	11
Kent	June 6	10.14	18	4.71	13
Kirkland Lake	May 30	13.2	9	8.0	10
Lanark	May 29	9.2	12	3.12	12
London	June 1	10.0	9	4.16	15
Michipicoten	June 27	9.28	18	1.42	18
Muskoka	June 6	10.33	16	3.66	20
Peel	July 3	13.2	14	9.8	18
Sault Ste. Marie	July 9	11.33	7	4.0	7
Simcoe	August 20	11.14	16	4.7	12
Sudbury	April 10	11.12	12	6.25	16
West Parry Sound	May 29	11.14	9	3.42	12

* Grey was not settled at time of report

** **Stage Score:** In an effort to set up a hierarchy of the various stages in the process to which the parties might have preceded, E.R.C. staff developed a framework to measure the number of stages utilized by the parties in each round of negotiations. A score of 0 indicates no third party involvement. A high score of 20 indicates the use of mediators before and after fact finding, fact finding and the supervising of both "last offer" and "strike" votes.

The results of pro-active fact finding on each jurisdiction are contained in Tables 4, 5 and 6.

The results tend to indicate that the early appointment of a fact finder did not have a positive impact on either the length of negotiations or the number of stages utilized by the parties. In fact, overall, pro-active fact finding would appear to have had a negative effect.

As indicated in Table 4, of the 18 jurisdictions with pro-active fact finding only 5 had shorter negotiations than in past rounds in terms of months and only one in terms of stages utilized.

It is true, of course, that the 1984-85 round was a difficult one in general. Tables 5 and 6, however, indicate that on average negotiations in the pro-active jurisdictions were substantially longer than those in other secondary school jurisdictions, again both in terms of months and stages utilized.

While these results are not definitive and a very small sample of cases was involved, it does appear that early fact finding has little positive impact, on the length of negotiations.

Table 5 **Average Length of Negotiations of Pro-Active Jurisdictions Compared with the Remaining Secondary School Jurisdictions where no Fact Finder was Appointed or where Fact Finder was Appointed after August 31, 1984**

		Average Length of Negotiations in months
Pro-active jurisdictions	(18)	20.66
Other secondary school jurisdictions	(58)	11.56
Secondary School Jurisdictions where **no** fact finder was appointed	(26)	8.3
Secondary School Jurisdictions where fact finder appointed after August 31	(32)	14.25

Table 6 **Average "Stage Scores" of Pro-Active Jurisdictions Compared with the Remaining Secondary School Jurisdictions where no Fact Finder was Appointed or where Fact Finder was Appointed after August 31, 1984**

		Average Stage Score
Pro-active jurisdictions	(18)	13.44
Other secondary school jurisdictions	(58)	7.34*

(B) Mediation Appointments

Mediators, or "persons to assist" as they are referred to under Section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. Table 7 sets forth the number of mediators appointed in 1984-85 and in each bargaining round since the inception of the Act. Mediators were appointed in 96 situations (i.e., in **47** percent of the cases). This represents the largest number of mediators appointed in absolute and percentage terms in the history of the Commission.

Table 7 Appointment of Mediators, 1975-76 to 1984-85

	Total number of negotiations conducted	Mediators appointed Number	Percent of Total Number of negotiations conducted
1975-76	205	51	25.0
1976-77	189	38	20.1
1977-78	210	58	27.6
1978-79	207	72	34.8
1979-80	180	63	35.0
1980-81	132	35	27.3
1981-82	168	47	28.0
1982-83	173	50	28.9
1983-84	178	5	2.8
1984-85	227	96	42.3

Table 8 Sets forth the assignment of mediators by board classification.

Table 8 Assignment of Mediators, 1984-85

Board Classification	No. of Situations Negotiating	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
Board of Education — Elementary	76	53	5	1	16	1
Board of Education — Secondary	76	28	10	12	18	8
County & District Combined Roman Catholic Separate	47	28	4	2	12	1
Other School Boards*	28	22	3	1	2	—
Total	227	131	22	16	48	10

*Includes Metro Toronto Central & Metro Trainable Retarded

4. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the Board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission. Any ratification vote ending a strike also must be supervised by the Commission.

Table 9 contains the number of last offer, strike and ratification votes conducted by the Commission over its ten year history including the 1984-85 round. A total of 67 votes — 39 last offer, 23 strike and 5 ratification — were supervised by the Commission. This constitutes the largest number of votes supervised since the inception of the Commission.

Therefore, these data too are indicative of the fact that negotiations were extremely difficult and lengthy in 1984-85.

Table 9 **Supervised Board's Last Offer, Strike and Ratification Votes, 1975-76 to 1984-85**

Vote	75-76	76-77	77-78	78-79	79-80	80-81	81-82	82-83	83-84	84-85	Total
Board's Last Offer Votes											
Elementary	—	—	2	1	1	—	—	—	—	3	
Secondary	15	5	8	9	12	1	7-1	4	—	23	
R.C.S.S.	—	5	5	3	12	3	5-4	—	—	13	
Other	—	—	—	1	1	1	—	—	—	—	
Total	15	10	15	14	26	5	12	4	—	39	140
Strike Votes											
Elementary	—	—	1	1	1	—	—	—	—	—	
Secondary	15	4	7	4	9	1	5	1	—	16	
R.C.S.S.	—	1	4	2	7	2	5-4	1	—	7	
Other	—	—	—	1	1	—	—	—	—	—	
Total	15	5	12	8	18	3	10	1	—	23	95
Ratification Votes											
Elementary	—	—	—	—	2	—	—	—	—	—	
Secondary	—	1	5	2	4	2	3	—	—	2	
R.C.S.S.	—	—	1	—	2	1	2	—	—	3	
Other	—	—	—	—	—	—	—	—	—	—	
Total	—	1	6	2	8	3	5	—	—	5	30
Total Vote by Year	30	16	33	24	52	11	27	5	—	67	265

Note: Boards of Education within Metropolitan Toronto counted individually

[1] Includes separate votes conducted by O.S.S.T.F. and A.E.F.O. in Simcoe.

[2] Includes vote taken Northumberland and Newcastle, but not counted as Branch Affiliate, in supervised vote, voted to accept the last offer received from the school board.

[3] Includes two (2) in West Parry Sound as first vote resulted in rejection.

[4] Includes separate votes conducted by O.E.C.T.A. and A.E.F.O. in Carleton R.C.S.S.

5. Strikes, Lock-outs and School Closings

Out of the 227 sets of negotiations referred to in Table 2, seven experienced teacher sanctions (see Table 10). There were strikes in the secondary school panels in Muskoka, Hamilton, Wellington County and Grey County. The strikes in Wellington and Grey started in September of 1985 and thus fall outside the reporting year. The sanction in Muskoka lasted 30 instructional days and ended in a negotiated settlement. There were shorter strikes in Stormont RCSS, Sudbury RCSS and York Region RCSS.

Table 10 **Strikes, Lock-Outs and Closing of Schools, 1984-85**
September 1, 1984 to August 31, 1985

Board	Number of Schools	Number of Teachers in Branch Affiliates	Number of Students Affected	Type of Sanction	Duration of Sanction	Final Settlement
Muskoka Secondary	3	154	2,171	Full Withdrawal	30 Inst. Days	1st year negotiated with Mediation assistance 2nd year to be arbitrated
Hamilton Secondary (OSSTF)	19	994	14,551	Work-to Rule, Full Withdrawal	39 Inst. Days	Negotiated with Mediation assistance
Stormont RCSS (AEFO)	23	237.3	4,269.5	Full Withdrawal	9 Inst Days	Negotiated with Mediation assistance
Sudbury RCSS	80	1,009	17,946	Full Withdrawal	21 Inst. Days	Mediation-Arbitration
York Region RCSS	42	867	15,935	Work-to-Rule	22 Inst. Days	Negotiated with Mediation assistance

The strike in Hamilton by O.S.S.T.F. lasted 39 school days and had not been resolved by the end of June 1985. An unusual aspect of the sanction arose from the first 10 days which took the form of "work-to-rule". (The secondary school teachers employed by the Board who are members of L'Association des Enseignants Franco Ontariens, Hamilton Secondary Unit ratified the terms of a collective agreement and were not involved in the sanction.) During the "work-to-rule" sanction the teachers shortened the school day to a period of time less than that required by Ministry of Education regulations. The board took the view that the teachers had exceeded "work-to-rule" and therefore it could not legally pay them for the 10 day "work-to-rule" period when, under the Board's interpretation, the teachers were on strike. Both parties filed requests with the Commission for determinations that the other party was not bargaining in good faith. Preliminary attempts by the staff of the Commission failed to resolve the dispute.

On August 7, 1985 the Chief Executive Officer invited both parties to the offices of the Commission in an effort to resolve the dispute regarding payment for those days when the "work-to-rule" was in effect. The mediator appointed by the Commission was successful in reaching an agreement on this particular issue. Both parties withdrew their applications for determinations and the board agreed to discontinue an action it had commenced in the Supreme Court of Ontario. The Board agreed to advance four (4) days' pay to the teachers and to submit the dispute to binding arbitration. The parties also agreed that in the event that either party elects to refer the arbitrator's decision to the courts for judicial review then they shall give notice to the other party of such intention within fifteen (15) days of the receipt of the arbitrator's decision. The parties further agreed that if such notice is not given within the time stated then the matter shall not be referred to the courts for judicial review.

Once the "work-to-rule" problem was resolved mediation continued, the parties negotiated a collective agreement, and the 39 day sanction was ended before school commenced on September 3, 1985.

A complete record of sanctions since the passage of the Act is included in Appendix B.

6. Voluntary Binding Arbitration/Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of third party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. As indicated in Table 11 voluntary binding arbitration was used in just 3 cases and final offer selection was not utilized by the parties at all. The following is a description of the process involved in each of these options.

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator or a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Table 11	Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1984-85	
Board Classification	**Agreements Reached by Voluntary Binding Arbitration**	**Agreements Reached by Final Offer Selection**
Boards of Education — Elementary	2	—
Board of Education — Secondary	0	—
County and District Combined Roman Catholic Separate School Boards	1	—
Other School Boards	—	—
Total	3	—

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

7. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a grievance as the final and binding step of the procedure.

During 1984-85, the Commission made 8 such appointments, 3 were chairmen of arbitration boards, and 5 were single arbitrators (see Table 12).

Table 12	Appointments Concerning Grievance Arbitration, 1984-85	
Board Classification	**Number of Appointments By ERC**	**Nature of Appointments**
Boards of Education — Elementary	0	
Board of Education — Secondary	3	2 Chairmen 1 Single Arbitrator
County and District Combined Roman Catholic Separate School Boards	5	4 Single Arbitrators 1 Chairman
Other School Boards	—	—
Total	8	

8. Determination of Good Faith Bargaining

Several complaints of failure to bargain in good faith were before the Commission during 1984-85 (see Table 13). Of the 17 cases before the Commission, 5 arose from the conflicting interpretation of Bill 179 and its effect on Bill 100. Fourteen of the seventeen charges have been withdrawn. One of the charges (O.S.S.T.F. versus the Frontenac County Board of Education) was dismissed by the Commission after hearing the case and two are pending as of the end of the reporting period.

Table 13	Good Faith Bargaining Charges, 1984-85	
Complainant	**Respondent**	**Disposition**
Branch Affiliates of F.W.T.A.O. & O.S.S.T.F.*	Sault Ste. Marie Board of Education	Withdrawn
Branch Affiliates of O.S.S.T.F. & A.E.F.O.*	Ottawa Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.** (2 complaints filed)	Durham Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.** (2 complaints filed)	Bruce County Board of Education	Withdrawn

Branch Affiliate of O.S.S.T.F.**	East York Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.**	Red Lake Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.**	Kent County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Muskoka Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Huron County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Frontenac County Board of Education	Dismissed
Sudbury District RCSS Board	Branch Affiliates of A.E.F.O. and O.E.C.T.A.	Withdrawn
Branch Affiliate of A.E.F.O. and O.E.C.T.A.	Durham Region RCSS Board	Pending
Branch Affiliate of O.S.S.T.F.	Perth County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Board of Education for the City of Hamilton	Withdrawn
Board of Education for the City of Hamilton	Branch Affiliate of O.S.S.T.F.	Withdrawn
Branch Affiliate of O.S.S.T.F.	Timiskaming Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Sault Ste. Marie Board of Education	Pending

*Initiated during the 1983-84 year.
**Initiated during 1982-83 year.

9. Advisements

During the 1984-85 negotiation round the Commission issued no determinations concerning its obligation to advise the Lieutenant Governor in Council when in its opinion the continuation of a strike, lock-out, or closing of schools would place in jeopardy the successful completion of courses of study by students. The two latest strikes which took place during the reporting year in Muskoka and Hamilton were resolved through negotiations between the parties with the assistance of the ERC and at a point well short of a jeopardy situation.

10. Duration of Agreements and the 1985-86 Round

In summary the 1984-85 round was notable for the large number and inordinate length of negotiations and for the over-utilization of third party assistance by the parties.

The 1985-86 negotiation round, too, will see a high level of activity. Relatively few collective agreements in 1984-85 were two-year agreements (see Table 14) so that approximately 180 sets of negotiations will take place in 1985-86.

Table 14 Duration and Termination Dates of Settlements Concluded in 1984-85*

Board Classification	Not Settled	1 Year Aug. 31/85	2 Years Aug. 31/86	3 Years Aug. 31/85
Boards of Education — Elementary	1	59	15	1
Boards of Education — Secondary	2	56*	17	1
County and District Combined Roman Catholic Separate School Boards	—	40**	—	
Other School Boards	—	26***	2	—
Total	3	181	41	2

* Two agreements, Halton Secondary and Kapuskasing Secondary, are two-year agreements running from September 1-83 to August 31-85

** Kapuskasing RCSS is a two-year agreement running from September 1-82 to August 31-85. Stormont, Dundas and Glengarry R.C.S.S. (OECTA-Aug. 31-85; AEFO-Aug. 31-86).

*** Includes Connell and Ponsford, a two-year agreement running from September 1-83 to August 31-85

V STAFF ACTIVITIES

1. Field Services

(a) Monitoring of Negotiations

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. The two Field Officers under the direction and supervision of the Director of Field Services are responsible for monitoring the negotiations in all jursidictions in the Province. This regular contact, by both on-site visits and phone enables the individual Field Service Officer to gain an understanding of emerging issues in negotiations and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures and requirements under the Act are clarified. The Commission's monitoring activity across the province during the past year is presented on the maps illustrated below.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

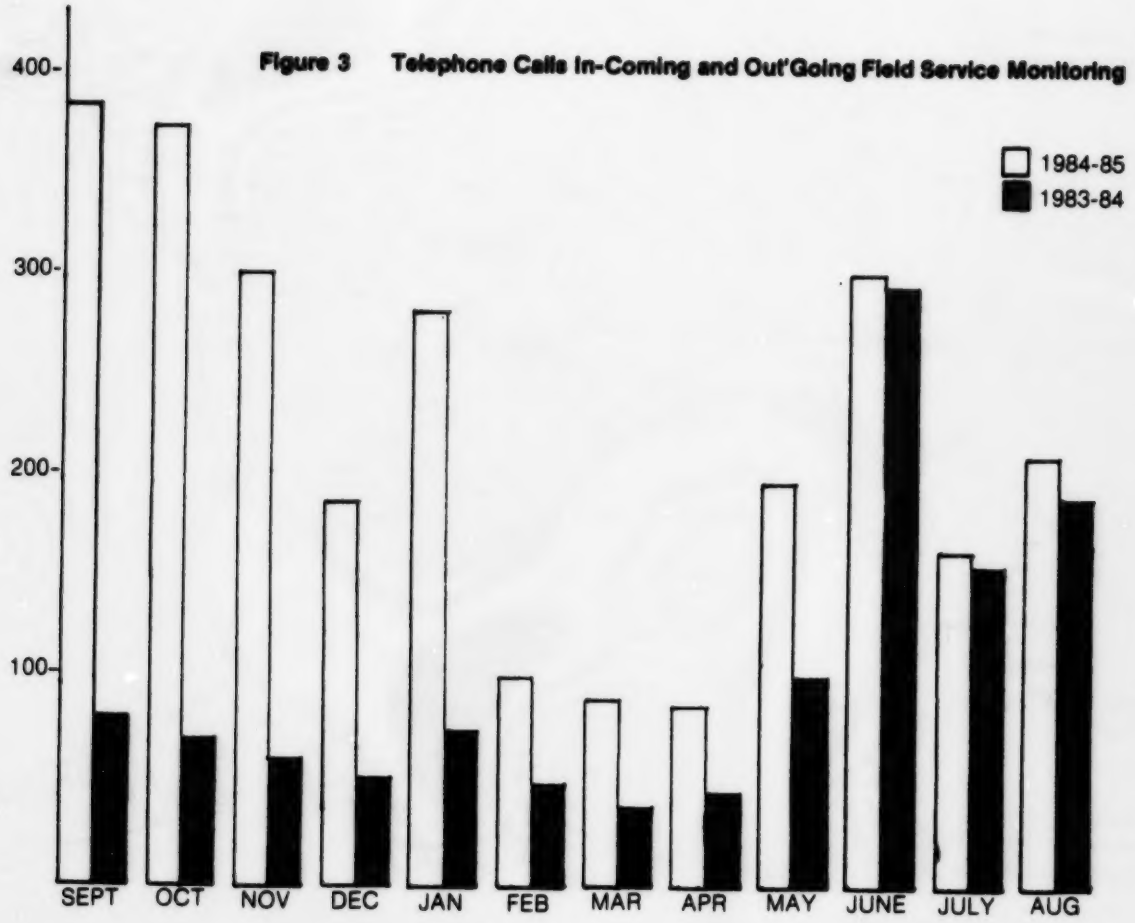
Field Services staff formally analyse all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses also include recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher/school board relationship. Through this system, more effective and economical appointments are made. Moreover, more informed decisions concerning third party appointments have resulted.

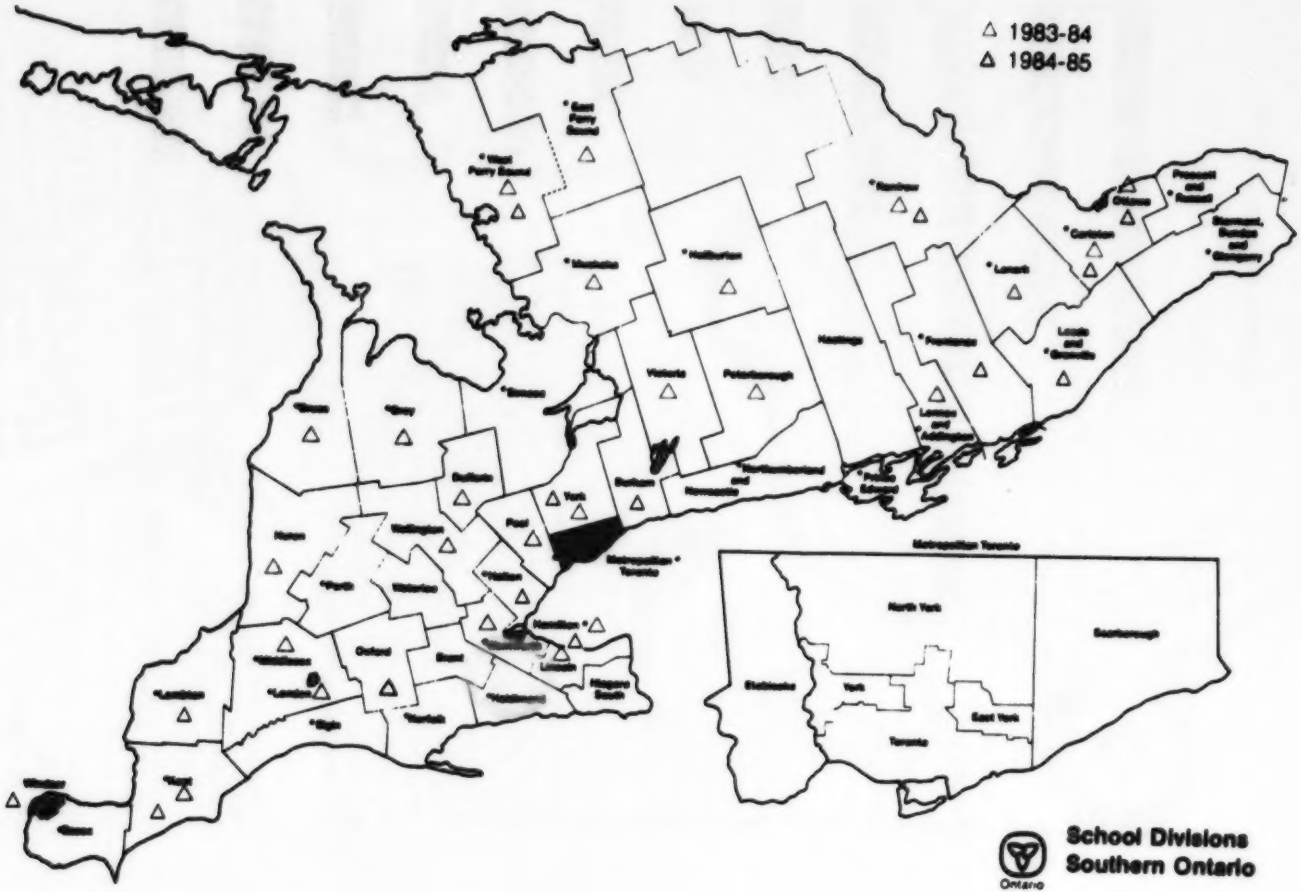
In the monitoring activities, emphasis is placed on the Field Service Officer establishing a high profile with the parties and on strengthening the relations between the field officer and the branch affiliates and school boards in order to enable the Commission to provide the best possible service to the parties in their negotiations and teacher-board relations.

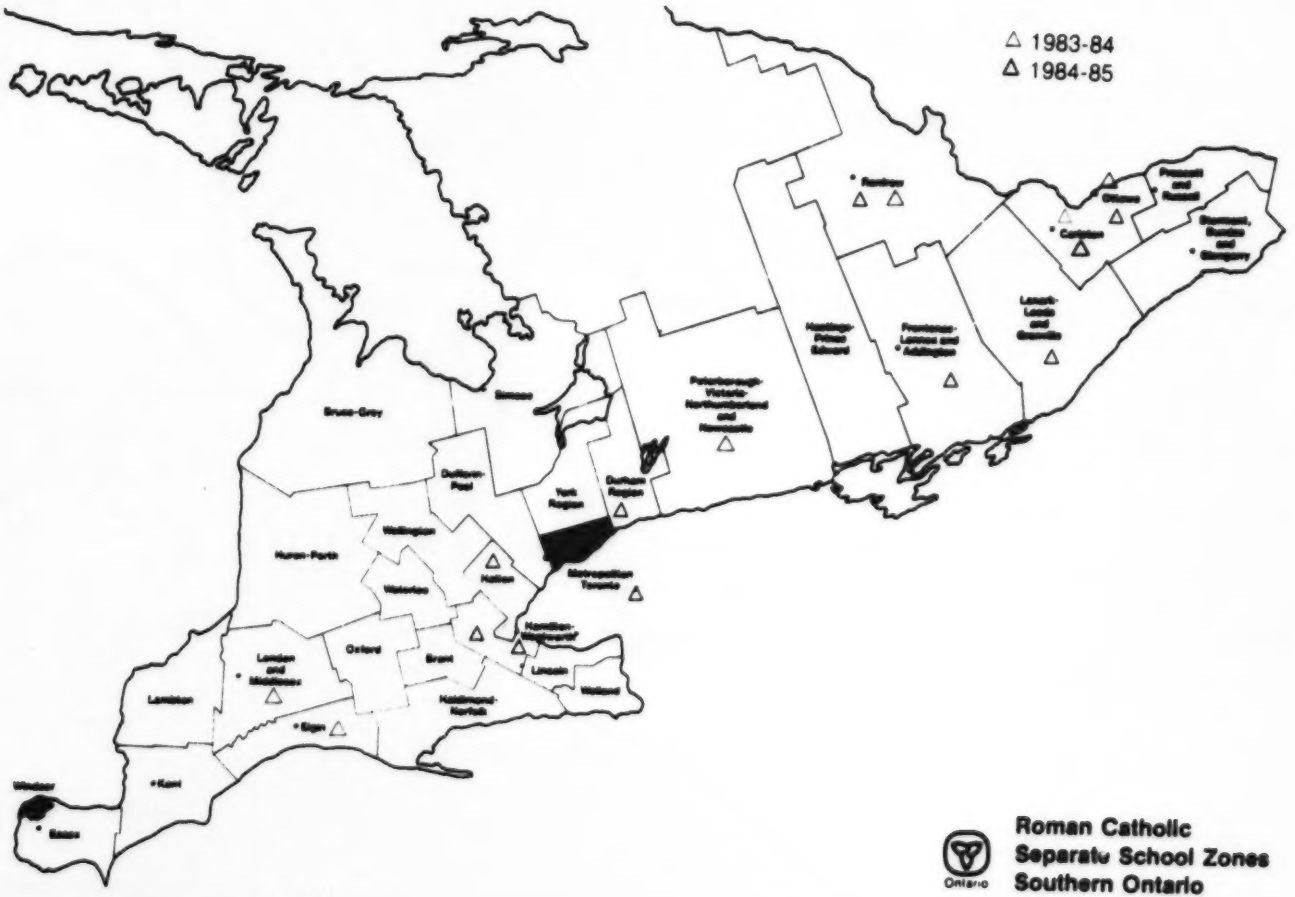
As can be seen from Figure 3, the high level of bargaining activity in 1984-85 resulted in a significant increase in the level of monitoring activity by telephone on the part of field services staff. The staff's field visits to various jurisdictions in the province over the past two years are illustrated in the maps on the following pages.

* A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers federations or associations. A branch affiliate is comparable to a local union.

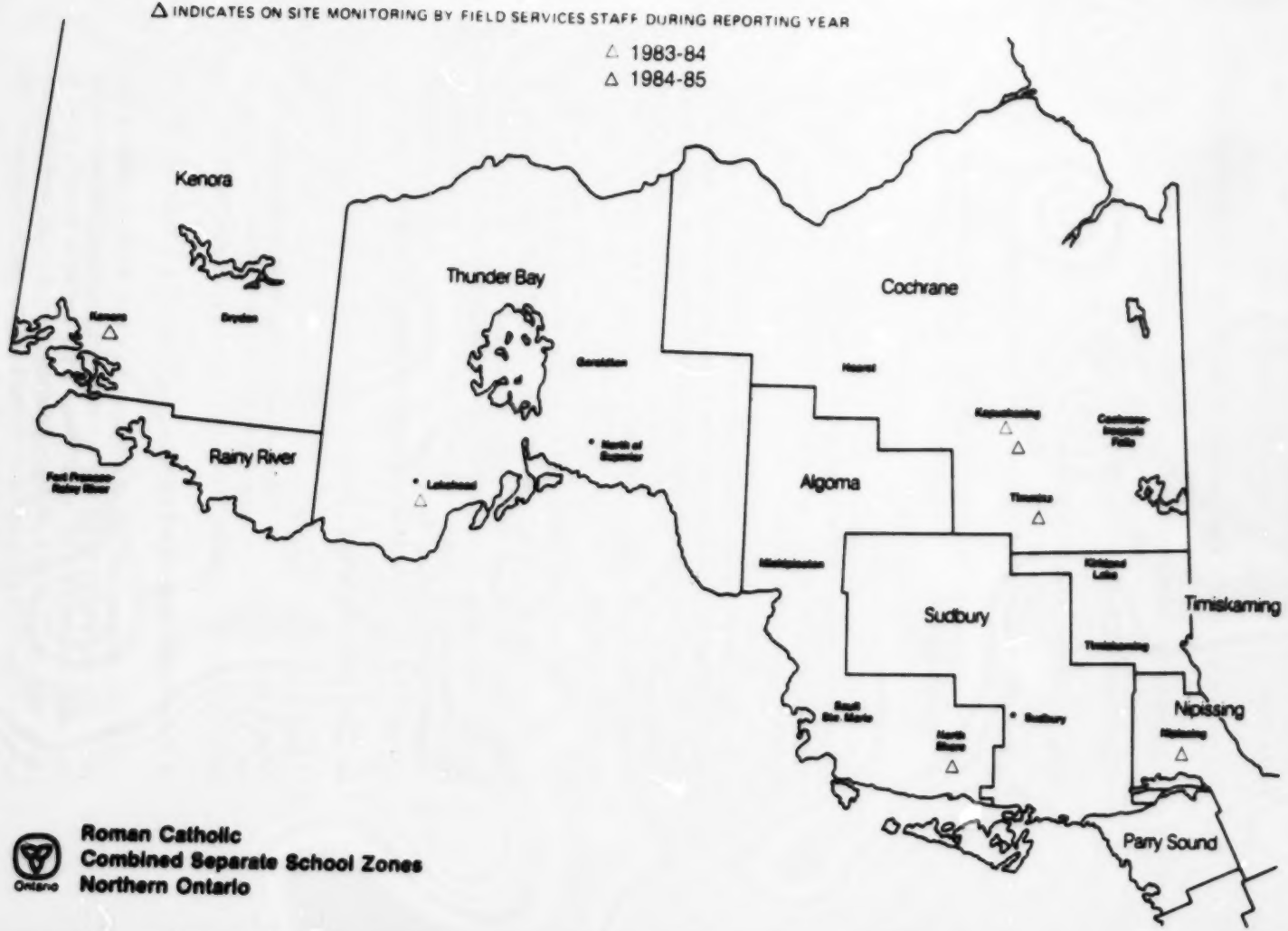
Figure 3 Telephone Calls In-Coming and Out'Going Field Service Monitoring




△ 1983-84
△ 1984-85
School Divisions
Southern Ontario


△ 1983-84
△ 1984-85
Ontario
Roman Catholic
Separate School Zones
Southern Ontario

△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR
△ 1983-84
△ 1984-85
Kenora
Red Lake
Thunder Bay
Cochrane
Rainy River
Algoma
Timiskaming
Sudbury
Nipissing
Parry Sound
School Divisions
Northern Ontario
Ontario


△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR
△ 1983-84
△ 1984-85
Kenora
Thunder Bay
Cochrane
Rainy River
Algoma
Sudbury
Timiskaming
Nipissing
Parry Sound
Roman Catholic
Combined Separate School Zones
Northern Ontario
Ontario

In addition to the monitoring and third party appointment processes, Field Services staff is intensively involved in a number of other Commission endeavours:

1. selection, training and evaluation of third-parties;
2. quasi-judicial matters;
3. preventive mediation programs;
4. other miscellaneous activities.

(b) Selection, Training and Evaluation of Third Parties

Beyond the role which Field Services staff perform in the appointment of third party neutrals, they are also engaged in their selection, training and evaluation.

(i) Selection

Section 60(1)(e) of the Act directs the Commission "to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors."

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. The Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC, but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(c) Quasi-Judicial Matters

Field Services staff is involved in two areas: (1) the appointment of Returning Officers in conjunction with branch affiliate requests to hold Commission-supervised votes, and (2) the investigation of complaints alleging the failure of a party to negotiate in good faith.

(i) Commission-Supervised Votes

Following the public release of a fact finder's report, a branch affiliate is in a position to request that the Commission supervise a vote by its members on the last offer received from the school board and/or whether or not a strike is favoured. Also, if a strike does occur, once a settlement is achieved during the strike, the teachers are required to conduct a Commission-supervised vote concerning the approval of the terms of agreement.

Field Services staff arrange for qualified people throughout the Province to act as Returning Officers for these votes. During the 1984-85 year, a record number of votes were conducted; 67 in total.

(ii) Complaints re Good Faith Bargaining

The Commission has established a procedure for dealing with complaints of this nature. The procedure provides that prior to a formal hearing an informal effort be undertaken to investigate a complaint with a view to its resolution.

It has become customary for Field Services staff to act as investigators and a total of 6 complaints were dealt with during the 1984-85 year, 4 of which were resolved locally thus avoiding the need to proceed to a hearing.

(d) Preventive Mediation

Preventive mediation programs are administered by the Field Services unit. Their main purpose is to assist the parties in reducing, if not eliminating, the obstacles which prevent the parties from resolving matters of mutual concern. In addition preventive mediation attempts to equip the parties with tools which enable them to conduct their negotiations in a more effective and efficient manner within the existing structure of collective bargaining. It must be stressed that preventive mediation activities are not designed to change the present structure of collective bargaining. However, they are designed to enhance it and to make it work for the benefit of both parties. In contrast to conventional mediation, preventive mediation is normally conducted outside negotiations.

It should be stressed the preventive mediation is offered only after both parties in a jurisdiction request ERC involvement.

Although experimentation with preventive mediation began in 1979-80, an official program was not established until 1980-81. The two dimensions of the preventive mediation program are: Relationships by Objectives and Grievance Mediation.

(i) Relationships by Objectives (R.B.O.)

The R.B.O. program involves two numerically equal groups of teachers and trustees/administrators in working through the six steps identified below:

I Identification of the issues to be résolved as seen by each side.

II Explanation of issues and rationale by each side to the other.

III Agreement on a list of objectives based on the issues.

IV Creation of action steps to meet these objectives by groups composed of an equal number of members from each party.

V Acceptance and/or tailoring of these action steps by teacher and trustee groups separately.

VI Acceptance of action steps, assigning responsibility and setting time lines by whole group.

This program was originally developed to take place over three days in a residential setting. The Commission, in meeting the needs of the parties has altered this design to:

1) Accommodate the problems encountered in attempting to free key trustees, teachers and administrators for a three-day period during the school year.

2) Shorten the program from three days to two.

To achieve this, the first step in the process is held prior to the residential portion of the workshop. Also, using the information given by the parties in this first session, the Commission staff prepares a list of objectives which the parties accept and/or tailor in Step III.

The design of the program allows the participants to develop a separate statement of the issues in the school system. Then the parties work towards joint objectives followed by joint action steps to meet these objectives.

This structure, in combination with the time away from the pressures of the system, facilitates the opening of new communication links and channels as well as the clearing of inappropriate and inaccurate perceptions which exist in every large organization.

The Commission in offering this program to school boards throughout Ontario, insists that two criteria be met:

1. Both parties indicate that they desire to participate in the program.

2. The program will not be offered in any jurisdiction where negotiations are in progress.

Jurisdictions which have utilized this program are listed below. During the reporting year the Education Relations Commission conducted an R.B.O. in Renfrew Secondary.

Given the nature of the bargaining calendar during 1984-85, most resources were devoted to negotiation activities rather than R.B.O.'s. However, at this time, a number of jurisdictions have indicated an interest in participation during 1985-86.

(H) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance mediation is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

The Commission introduced grievance mediation in 1979-80. Meetings were held with the provincial teacher federations and trustees associations to introduce the concept, and explain some of its advantages.

A training session for grievance mediators was held in 1980-81. Eight mediators from across the province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process. The purpose was to develop a group of experts. From this group the Commission appoints as the need arises.

In February 1984, the Commission hosted a workshop on grievance mediation. The aim of the workshop was to explain the techniques and procedures involved in Grievance Mediation and compare this process in terms of cost, philosophy and practical aspect to Grievance Arbitration. Over 200 people attended and these encompassed the full spectrum of the education sector — teachers, trustees, administrators and boards' legal counsel.

From the Commission's point of view, the number of people attending the workshop and the number of grievance mediation appointments during the year indicated some change of attitude toward the grievance process by the parties. Grievance mediation appointments over the past five years are listed below. The process, while utilized modestly, remains a useful and less costly alternative to rights arbitration.

HISTORY OF PREVENTIVE MEDIATION

Date	Jurisdiction	Parties	Facilitators	Nature of Preventive Mediation
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Dr. David Tough	Five meetings to set up ground rules for negotiations.
1979	Essex RCSS Bd.	Trustees, Administrators Teachers	Mr. Bill McCordic	Assisted in developing a staffing formula for September 1980
1979	Perth County Bd. of Education	Trustees, Administrators Teachers	Dr. David Tough	Chaired committee of trustees, administrators and teachers on staffing and time-tabling in the secondary schools.
1979	Haldimand Bd. of Education	Trustees, Administrators	Sam McKeown	Weekend workshop of Relationships by Objectives.
Jan-Feb 1980	Wellington County Board of Education	Trustees, Administrators Secondary Teachers	Kim Shearer	Facilitate cooperative bargaining process — 4 sessions totalling 67 hours.
May 1980	Halton Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationship by Objectives.
June 1980	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers	Kim Shearer	Three-day workshop on alternative methods of bargaining; representatives from 6 boards were brought together to discuss pros and cons of various methods.
June 1980	Haldimand Bd. of Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on communications.

Oct 1980	Lennox & Add. County Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Communication Skills.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres	Three-day workshop on Problem-Solving Skills.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam Keown Eric Runacres Craig Crawford	Three-day workshop on Conflict Management.
Mar 1981	Lambton County Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers	Kim Shearer Paul Doucette Eric Runacres	Two-day workshop on Relationships by Objectives.
Oct 1981	East Parry Sound Bd. of Education	Trustees Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Eric Runacres Jim Breckenridge	Two-day Evaluation workshop.
Apr-May 1981	London Bd. of Education	Administrators	Sam McKeown	Planning new approaches to administration in the 80's (Two one-day sessions).

June 1981	Haldimand Bd. of Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on communications.
Feb 1982	East Parry Sound Bd. of Education	Administrators Elementary and Secondary Teachers	Eric Runacres	One-day workshop to review communication, problem-solving and conflict managements skill establish future goals; develop action steps.
Mar 1982	Essex RCCS Bd.	Trustees, Administrators, Teachers (OSSTF FWTAO, AEFO)	Eric Runacres	Two-day workshop on communications, problem solving and conflict management skills.
Apr 1982	East Parry Sound Bd. of Education	Administrators, Principals of all Elementary and Secondary schools selected department heads from the Secondary school, and consultants who serve the system	Eric Runacres Don Musella	Three-day workshop of Leadership, skill development in communications, problem-solving, decision-making, and ways to handle conflict.
June 1982	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Craig Crawford, Jim McLachlin	Evening session to introduce new trustees and teachers to technical assistance programme.
June 1982	Timiskaming Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Sam McKeown Kim Shearer	Day and one-half workshop on Relationship by Objectives.

Nov 1982	Lincoln Bc. of Education	Trustees and Administrators	Sam McKeown	Two-day workshop on Relationships by Objectives; familiarize new trustees with the shool system operation.
Feb 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher	Kim Shearer	Three-day workshop to develop internal facilitators.
Feb 1983	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Craig Crawford	Three-day workshop on communications, problem-solving conflict management, group development, and relationship focusing.
May 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher 3 ERC Staff	Kim Shearer	Learning reinforcement for internal facilitators.
Oct 1983	West Parry Sound Bd. of Education	Trustees, Administrators, Elementary Teachers	R. H. Field Bill Piliotis Craig Crawford Harry Sparling Jim Breckenridge	Two-day workshop on Relationships by Objectives.
Jan 1984	Atikokan Bd of Education	Trustees, Administrators, Elementary and Secondary Teachers	R. H. Field Bill Piliotis Craig Crawford Jim Breckenridge	Two-day workshop on Relationships by Objectives.

Jan 1984	Welland County Roman Catholic Separate School Board	Trustees, Administrators, Teachers	R. H. Field Bill Piliotis Craig Crawford Jim Breckenridge	Two-day workshop on Relationships by Objectives.
May 1984	Canadian Forces Base, Petawawa Bd. of Education	Trustees, Administrators, Elementary Teachers	R. H. Field E. M. Aim D. Nilsson Craig Crawford Jim Breckenridge	Two-day workshop on Relationships by Objectives
Jan 1985	Renfrew County Bd. of Education	Trustees, Administrators Secondary Teachers	R. H. Field E. M. Aim D. Nilsson Jim Breckenridge	Two-day workshop on Relationships by Objectives.

GRIEVANCE MEDIATION APPOINTMENTS, 1979-85

DATE	PARTIES	GRIEVANCE MEDIATOR	NATURE OF ASSISTANCE
June 1980	Provincial Schools Authority and Federation of Provincial Schools Authority Teachers	Maureen Saltman	Issue Resolved
June 1981	Nippissing Board of Education and the Branch Affiliates of FWTAO and OPSTF	Graeme H. McKechnie	Issue Resolved
March 1982	Central Algoma Board of Education and the Branch Affiliate of OSSTF	Malcolm Stockton	Issue Resolved
May 1982	Northumberland and Newcastle Board of Education and the Branch Affiliates of FWTAO and OPSTF	Malcolm Stockton	No Resolution; Issue went to Arbitration
May 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	David Moore	Issue Resolved
Sept. 1983	York Region RCSS Board and the Branch Affiliate of OECTA	Graeme H. McKechnie	No Resolution; Issue went to Arbitration
Sept. 1983	Victoria Board of Education and the Branch Affiliate of OSSTF	Maureen Saltman	Issue Resolved; Rejected Dec. 8; Issue went to Arbitration
Sept. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of AEFO	Michel Picher; assisted by Helen Finlay	Issue Resolved; but Rejected by Board October 3, 1984
Oct. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Frank A. Addario	Seven Grievances Issues Resolved

Dec. 1983	Haldimand Board of Education and the Branch Affiliate of OSSTF	Tom Bastedo	Two Grievances, one resolved, one to Arbitration
Dec. 1983	Essex County RCSS Board and the Branch Affiliate of OECTA	Graeme H. McKechnie	Issue Resolved
Jan. 1984	Halton Board of Education and the Branch Affiliate of OSSTF	Dr. Bill Marcotte	No Resolution; Issue went to Arbitration
Jan. 1984	Peel Board of Education and the Branch Affiliate of OSSTF	David Moore	No Resolution
Jan. 1984	CFB Petawawa Board of Education and the Branch Affiliates of FWTAO and OPSTF	Dr. Bill Marcotte	Resolved
April 1984	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Dr. Harold Jakes	Issue Resolved; Rejected by Board
April 1984	Kapuskasing Board of Education and the Branch Affiliate of AEFO	Norman Bernstein	Issue Resolved
June 1984	North York Board of Education and the Branch Affiliates of FWTAO and OPSTF	Maureen Saltman	Agreement to hold Issue in Abeyance
June 1984	Red Lake Board of Education and the Branch Affiliate of OSSTF	Paul Piche	Issue Resolved
June 1984	Northumberland and Newcastle Board of Education and the Branch Affiliate of the OSSTF	Maureen Saltman	No Resolution: Issue went to Arbitration

Oct. 1984	Sudbury Roman Catholic Separate School Board and the Branch Affiliate of AEFO	Norman Bernstein	Resolved
Nov. 1984	Timiskaming Board of Education and the Branch Affiliate of OSSTF	Tom Bastedo	Parties unable to meet; Issue to Arbitration
Dec. 1984	Sudbury District Roman Catholic Separate School Board and the Branch Affiliate of OECTA	Maureen Saltman	Resolved
Dec. 1984	Kapuskasing Board of Education and the Branch Affiliate of FWTAO	Graeme H. McKechnie	Resolved
April 1985	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Malcolm Stockton	Resolved
May 1985	Red Lake Board of Education and the Branch Affiliate of FWTAO	Paul Piche	Resolved
May 1985	Board of Education for the City of Windsor and the Branch Affiliate of OSSTF	Dr. R. Ianni	Issue to Arbitration

(e) Other Miscellaneous Activities

A major workshop concerning interest mediation was held for representatives of the local parties in March, 1985, in Toronto. The purpose of the workshop was to provide information to the parties on the methods and utilization of the mediation process. A cross-section of participants was involved and in excess of 200 enrolled in the workshop.

The one-day session consisted of a number of topics:

— an overview of the process of mediation and the Commission's role in this process with Dr. B.M. Downie, Chairman of the ERC acting as presentor;

a panel of discussants consisting of Commission-staff and experienced mediators to react to questions/concerns regarding mediation from the participants;

a luncheon presentation by Chief Justice Alan B. Gold, Superior Court of Quebec, a renowned third party in Canada;

a case study of mediation employing the Commission-produced training film "Apples Won't Get It Anymore."

Evaluations of the workshop were extremely positive and included suggestions that consideration should be given to the continuation of such efforts as well as their expansion to other areas, e.g. fact finding.

Liaison activities continued with ERC Field Services staff and the staffs of the various provincial bodies of teacher and trustee organizations. These sessions enable an on-going dialogue about the collective bargaining process and perceived problems or areas for improvement.

Throughout the year, Field Services staff were asked to act as presentors in a wide variety of workshops and seminars enabling the role and activities of the Commission to be explained on a first hand basis. Among others, staff were involved in the following: Canadian School Trustees' Association Congress on Education, Canadian School Trustees' Association Conference for Negotiators, Association of Labour Relations Agencies Annual Meeting and Conference, Ontario School Trustees' Council Salary Conference, Ontario Association of Education Administrative Officials Conference for Chief Executive Officers.

2. RESEARCH SERVICES

(a) Information

Research Services — which is composed of a Director, two Research Specialists, and a Collective Agreements Analyst — is responsible for developing and maintaining a common collective bargaining data base. Local teachers and school boards rely heavily on this data base to identify emerging settlement trends, and to resolve factual disputes. The Research staff, through extensive telephone contacts and published reports, also keep the local parties abreast of new developments in contract language and arbitral jurisprudence. During the 1984-85 year, Research Services processed more than 1,100 requests for information. (See Tables 15 and 16).

The Commission's data base contains salary, benefits and other working conditions information which has been extracted from over 2,000 collective agreements dating back to 1975-76. Also contained in the data bank are staffing, enrolment and school board expenditure information which is collected in cooperation with the Ministry of Education.

Table 15 Number of Requests for Information by Month and Party, 1984-85

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1984								
Sept.	11	12	14	4	3	1	13	58
Oct.	16	20	38	3	3	1	21	102
Nov.	6	17	24	12	1	1	27	88
Dec.	8	6	16	4	2	1	12	49
1985								
Jan.	4	16	8	9	—	1	21	59
Feb.	8	6	6	4	—	—	20	44
Mar.	4	10	2	3	1	—	10	30
April	8	15	3	7	1	—	16	50
May	5	22	2	6	5	3	18	61
June	5	18	9	5	1	—	19	57
July	6	4	—	3	—	1	5	19
Aug.	10	9	12	2	—	—	10	33
TOTAL	91	155	124	62	17	9	192	650

Table 16 Number of Requests for Publications, Month and Party, 1984-85

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1984								
Sept.	13	12	2	1	1	—	30	59
Oct.	19	8	12	2	—	1	34	76
Nov.	10	13	8	5	—	—	45	81
Dec.	8	2	2	2	—	1	29	44
1985								
Jan.	—	1	1	2	—	—	6	10
Feb.	17	10	—	4	—	—	16	47
Mar.	7	4	1	2	—	—	9	23
April	10	6	—	5	—	—	5	26
May	9	8	1	2	2	2	9	33
June	1	6	14	4	6	—	8	39
July	2	1	—	1	—		16	20
Aug.	4	4	1	—	—	—	13	22
TOTAL	100	75	42	30	9	4	220	480

Research Services also maintains a reference library which contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and ERC determinations. The library is open to the public.

Research officers participate actively in the training and evaluation of mediators and fact finders. The unit tries to improve the efficiency and effectiveness of third parties by supplying, on very short notice, complex historical and comparative analyses of salaries and other working conditions. These analyses are used by the third parties to evaluate the relative merits of the two parties' positions, and to develop recommendations which will assist the parties in reaching a rational and amicable settlement of their differences.

During 1984-85, Research Services undertook a comprehensive two-month examination of the impact of technology and other factors on the future of ERC's information service. This study concluded that existing computer operations on an external mainframe computer should be closed down, a mini-computer should be purchased, and all computing should be carried out "in-house". By moving in this direction, the ERC could reduce its data processing costs, yet improve and expand its services.

The consulting firm of Price-Waterhouse was contracted to recommend an appropriate computer configuration. After a six-week study, Price-Waterhouse concluded that the purchase of a Digital VAX 11/750 mini-computer would not only satisfy the ERC's computing needs but would also, using conservative estimates, pay for itself within three years.

In anticipation of transferring its operations in-house, Research Services moved its data to the Ontario Institute for Studies in Education (OISE) which had a computer configuration similar to the one recommended in the Price-Waterhouse study. This allowed the research unit an opportunity to develop computer programs capable of being transferred, without modifications (and attendant delays, and associated costs) onto the proposed in-house computer. Over 40 computer programs were developed and tested at OISE during an eight month period.

Meetings were also held with the provincial teacher and trustee organizations to inform them of the Commission's new activities. In return for direct access to the Commission's proposed in-house computer, these organizations offered to assist the Commission in developing new and better computer programs, and in supporting the data base by training local negotiators in its effective use. One of the products of this cooperative venture was the development of several powerful costing programs.

Cabinet approved the purchase of an in-house computer on October 3, 1985. Direct access by the five provincial trustee and five provincial teacher associations occurred in November, with local access by school boards and branch affiliates slated for April 1986.

b) Research

As in previous years, Research Services personnel continued to publish various reports on salaries and other working conditions. However, because of the need to control rapidly escalating printing and mailing costs, and the desire to provide information on a more timely basis, Research Services placed greater emphasis this year on developing methods of electronic distribution. For example, a Bulletin Board System was developed which will allow negotiators to access the ERC data bank through remote terminals and obtain up-to-the-minute salary trends. In previous years the parties would normally have to wait until the Commission published its bi-monthly settlement report. A Clause File System was also developed. Negotiators can now access the ERC data bank to peruse various types of contract language without having to wait for the receipt of published documents which sometimes might arrive months after their need arose.

Finally, Research Services developed a two-year research agenda to further the Commission's goals, that is, to:

- maximize the settlement rate;
- minimize the length of negotiations;
- minimize the stages of bargaining utilized by the parties;
- minimize the number of appointments;
- minimize the costs of appointments; and
- maximize the efficacy of third parties.

This research agenda includes studies of the mediation and fact finding processes, the early identification of "problem-prone" situations, an evaluation of the impact of early fact finding or "pro-active bargaining" and an examination of the relationship between the length of negotiations and bargaining outcomes.

These studies are progressing on schedule and should be completed during 1985-86. The results will assist the Commission to improve further its operational and strategic planning.

APPENDIX A BIOGRAPHIES OF THE COMMISSION

Chairman

Bryan M. Downie, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, Collective Bargaining and Conflict Resolution in Education examines the activities and policies of the Education Relations Commission during its formative years. He is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C. and is currently President of the Canadian Industrial Relations Association and a member of the Board of Directors of the Social Science Federation of Canada.

Vice-Chairman

T. Gary O'Neill, B.A. Sc. (University of Toronto), M.Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.

Commissioner

Harvey M. Nightingale, B.A. (University of Western Ontario), M.Ed. (University of Toronto), M.A. (York University).

Mr. Nightingale served as Director of Economic and Legislative Services for the Ontario Trustees' Council from 1973 to 1981. In this position he was responsible for both developing and articulating the trustees' position on various educational issues, including collective bargaining and the School Boards and Teachers Collective Negotiations Act.

Mr. Nightingale is Executive Director of the Ontario Nursing Home Association.

Commissioner

Louise B. Binder, B.A. (University of Toronto), LL.B. (Queen's University).

Miss Binder is Co-ordinator of Labour Relations with Gulf Canada Products Limited. Following graduation from law school she practised labour law for management with a Toronto law firm. Since 1977, she has been in private sector Employee Relations.

Miss Binder is also a member of the Ontario Public Service Labour Relations Tribunal.

Commissioner

Donald S. Felker, B.Sc. (University of Ottawa), M.Ed. (University of Toronto), Ed.D. (University of Pennsylvania).

Dr. Felker, a self-employed educational consultant, has served as an appointee in both grievance and arbitration boards. He spent thirteen years in the Ontario Public School System as a Teacher, Vice-Principal and Principal and from 1968 to 1973, he served as General Secretary for the Ontario Secondary School Teachers' Federation and is a Life Member of the Ontario Secondary School Teachers' Federation.

APPENDIX B SANCTION RECORD

Sanction Record, 1975-76 to 1984-85

Year School Board	Total Sanction Days	Total Sanction Days Excluding Work-to-Rule
1975-76 Secondary (6):*		
**Central Algoma	35	35
Kent County	66.5	13.5
**Kirkland Lake	44	44
**Metro Toronto	38	38
**Sault Ste. Marie	46	13
**Windsor	27	26
Year Average	42.7 (40.6)***	28.2 (32.7)***
1976-77 Secondary (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
RCSS (1):		
Durham	9	9
Year Average	9.0	9.0
1977-78 Secondary (5):		
Essex	16	16
Huron	31	31
Perth	41	0
**Renfrew	73	44
Wentworth	49	16
Year Average	42.0	21.4
RCSS (1):		
Essex	34	34
Year Average	34.0	34.0
1978-79 Secondary (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 Elementary (2):		
Brant	22	22
Peel	14	13
Year Average	18.0	17.5
Secondary (3):		
Lambton	39	39
North York	40	0
**Sudbury	56	56
Year Average	45.0	31.7
RCSS (2):		
Frontenac	14	14
Nipissing	18	18
Year Average	16.0	16.0

1980-81 Secondary (3):		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
RCSS (1):		
Essex	9	9
Year Average	9.0	9.0
1981-82 Secondary (2):		
Leeds and Grenville	0	0
West Parry Sound	51	51
Year Average	25.5	25.5
RCSS (2):		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	15.0	15.0
1982-83 Secondary (1):		
Oxford County	7	1
Year Average	7.0	1.0
1983-84 (0)	0	0
1984-85 Secondary (3):		
Hamilton (OSSTF)	39****	29****
Muskoka	30	30
Year Average	34.5	29.5
RCSS (3):		
Stormont, Dundas and Glengarry (AEFO)	9	9
Sudbury	21	21
York Region	22	0
Year Average	17.3	15.0

* 11 sanctions if Metro = 6

** An advisement was made pursuant to section 60(1)(h).

*** Average if Metro = 6.

**** There is a disagreement between the school board and the branch affiliate concerning the nature of the strike during its first 10 days. The branch affiliate contends the strike was a work-to-rule while the school board views the teachers' actions as going beyond a work-to-rule. The matter is to be decided through arbitration.

APPENDIX C STATEMENT OF EXPENDITURES
APRIL 1, 1984-MARCH 31, 1985

Categories		Budget Allocation $		Actual Expenditures $
Salaries and Wages*		560,800		493,453
Employee Benefits*		74,600		61,788
Transportation and Communi-s				
Communications	19,000		12,561	
Mailing	20,000		15,284	
Freight	—		198	
Relocation Expenses	—		1,936	
Travel Public Servants	60,000		23,832	
Travel — Others	107,400		206,365	
		206,400		260,176
Services				
Advertising-Print				
Design	50,000		56,704	
Rental Services	9,600		8,470	
Data Processing	25,000		32,738	
Housekeeping	1,500		350	
Conference Expenses	29,000		10,826	
Commissioners	30,000		27,624	
Professional Services	331,200		361,893	
Purchasing, Repairs	2,500		5,653	
Special Services	40,000		41,835	
Job Advertising	—		1,505	
		518,800		547,598
Supplies				
Data Processing				
Equip./Supplies	25,000		16,754	
Office Furniture	2,000		1,149	
Veh. Components, Hardware	—		2	
Office Equipment	2,500		4,407	
Lab. Equip./Drugs	—		6	
Utilities, Other Supplies	200		2	
Office Supplies	5,000		8,291	
Books Publications	4,500		4,692	
Cloth, Personnel & Health	—		3	
Drafting & Exhibits	—		5	
		39,200		35,311
TOTAL		1,399,800		1,398,326

* Adjusted per Management Board Order

APPENDIX D SUMMARY OF NEGOTIATIONS 1984-85

Negotiations conducted in accordance with the Act	
Total Number of Negotiations Conducted by Boards and Teachers in Ontario	227
Number of Negotiations Not Requiring Formal Commission Assistance	80
Number of Fact Finders Assigned	130
Number of Situations where Mediator Assigned	96
Settlements By Voluntary Binding Arbitration	3
Settlements By Voluntary Final Offer Selection	0

NOTE:
In some sets of negotiations both a fact finder and a mediator were assigned.